

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: BUYERS UNITED, INC., d/b/a BUYERSONLINE, d/b/a UNITED CARRIER NETWORKS, AND TOUCH AMERICA, INC.	DOCKET NO. WRU-03-44-3675
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ORDER GRANTING WAIVER

(Issued August 6, 2003)

On July 23, 2003, Buyers United, Inc., d/b/a buyersonline, d/b/a United Carrier Networks (Buyers), and Touch America, Inc. (Touch America), filed with the Utilities Board (Board) a joint application for a waiver of 199 IAC 22.23(2) regarding individual customer verification rules for unauthorized changes in telecommunications services. Both Buyers and Touch America are long distance telecommunications providers in Iowa. No objection to the request has been filed.

In support of the request, Buyers and Touch America state that they entered into an asset purchase agreement whereby Buyers agreed to purchase approximately 150 dedicated long distance customer accounts in Iowa from Touch America. The applicants also state that they intend to notify Touch America's customers of the transition to Buyers and that there will not be a change in the rates, terms, and conditions of service provided to those customers transferred to Buyers.

Moreover, the applicants state that customers being transferred to Buyers will be advised of their right to select another carrier.

To grant the waiver, the Board must find, based upon clear and convincing evidence, that the request meets the four criteria in 199 IAC 1.3. The four criteria are: 1) the application of the rule would cause undue hardship, 2) the waiver would not prejudice the substantial legal rights of any person, 3) the provisions of the rule are not specifically mandated by statute, and 4) substantially equal protection of public health, safety, and welfare will be afforded by a means other than prescribed by the rule.

The Board finds that a waiver of 199 IAC 22.23(2) should be granted, based on the Board's review of the information provided by Buyers and Touch America. The Board finds that it would be an undue hardship for Buyers to obtain over 150 individual authorization verifications for the change in service providers. The Board also finds that the waiver will not affect the substantial legal rights of any person and that equal protection of the public health, safety, and welfare have been afforded since all customers of Touch America will receive notice of the transfer to Buyers, will continue to receive service at the same rates and subject to the same terms and conditions, and will be afforded an opportunity to change providers if they choose to do so.

IT IS THEREFORE ORDERED:

The waiver request filed by Buyers United, Inc., d/b/a buyersonline, d/b/a United Carrier Networks, and Touch America, Inc., on July 23, 2003, is granted. The verification requirement of 199 IAC 22.23(2) for unauthorized changes in telecommunications service is waived.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 6th day of August, 2003.